

On March 23, 2021, Governor Ralph Northam signed [Executive Order 77](#), aimed at reducing Virginia's reliance on single-use plastics and reducing waste sent to landfills. EO 77 applies to all executive branch state agencies, including state institutions of higher education, and their concessioners.

What items are banned from further use?

Agencies shall discontinue buying, selling, or distributing these specific items: disposable plastic bags, single-use plastic and polystyrene food service containers, plastic straws and cutlery, and single-use plastic water bottles.

“Disposable plastic bag” does not include durable plastic bags with handles that are specifically designed and manufactured for multiple reuse and that are four millimeters thick; red bags for biohazard and medical waste; pet waste bags or plastic bags that are solely used to wrap, contain, or package ice cream, meat, fish, poultry, produce, unwrapped bulk food items, or perishable food items in order to avoid damage or contamination.

For the purposes of EO-77, the definition of “plastic and polystyrene food service containers” shall be the same as the definition of “polystyrene food service containers” in COV §10.1-1414 except that it shall also include containers made of all types of plastic. Agencies are encouraged to use the definitions in COV §10.1-1414 as additional guidance.¹

What does "single-use" mean and how should agencies determine which items are "single-use"?

"Single-use plastics" refers generally to a plastic item that is used once and immediately discarded, such as disposable personal plastic water bottles. Larger plastic bottles, such as a multi-use ketchup bottle, are not considered single-use; however, due to the low recycling rate of plastic, the negative impacts of plastics on the environment and emerging markets for reusable alternatives, replacing larger, multiple-use plastic bottles should be considered as part of the agency's longer-term solid waste reduction planning.

“Single-use plastic” excludes items not typically used by the public, such as plastic bags that are used to collect and store evidence for criminal and regulatory cases, plastics used in laboratories of all types and plastic handcuffs. Agencies should consult DEQ if there are questions about whether specific plastic items are covered by the Executive Order. As noted above, due to the low recycling rate of plastic, the negative impacts of plastics on the environment and emerging markets for reusable alternatives, replacing the excluded items should be considered as part of the agency's longer-term solid waste reduction planning. This includes seeking environmentally friendlier plastics to the extent practicable, including biodegradable plastics and plastics with high levels of recycled content.

Is a beverage cup a food service container?

Yes.

¹ COV will be updated by July 1, 2021 to include the amendments approved during the 2021 General Assembly session outlined here: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1104>

Are trash can liners included in the cessation of use?

Trash can liners are considered a disposable plastic bag. It is at the discretion of an agency to determine if trash can liners are necessary for public health, in which case the liners would be managed under the phase-out process over a 4-year period. If an agency does decide to use the phase-out option, opportunities to reduce the number of trash can liners, such as by reducing the number of trash can receptacles, should be investigated.

What items are exempt from the requirements of the cessation of use and how are those items identified?

There are three categorical exemptions to the cessation of use (medical, public health, public safety) and an agency-specific exemption to allow a delayed cessation of use. Categorical exemptions are at the determination of the agency claiming the exemption. Agencies are encouraged to use guidance provided by DEQ in making that determination. Agencies wishing to delay enactment of the cessation of use clause in the EO shall use a DEQ-provided form/template to notify and obtain the required concurrence of the DEQ Director.

- Items identified for a medical exemption are carried through permanently and are not otherwise required to be eliminated.
- Items identified for public health or public safety exemptions must be eliminated as part of the phase-out process.
- Items otherwise identified by an agency for a delayed cessation of use, with the concurrence of DEQ, must be eliminated as part of the phase-out with a final date of no later than December 31, 2022.

What should agencies do in instances where they have a large amount of single-use plastic items included on the cessation of use list already in stock?

One of the goals of the EO is to "ensure that the Commonwealth does not exceed the capacity of existing landfills and incinerators," so agencies should not dispose of unused plastic items already on hand. In such situations, agencies should use their existing inventory and if that cannot be accomplished by December 31, 2022, those items should be declared surplus and sent to the Department of General Services' Office of Surplus Property (OSPM) management per the DGS/DPS ASPSM (<https://dgs.virginia.gov/procurement/policy-consulting--review/policy/>).

What about single-use bottles in vending machines?

Single-use plastic water bottles in vending machines are included in the EO and should be discontinued from use. Other single-use plastic bottles are included under the phase-out section of the EO and should be replaced with alternatives.

Alternatives for other bottles include containers that are reusable, 100% recyclable or compostable. Agencies must work with their vendors to ensure a timely switch-out, especially if different vending machines will be needed. Alternatives exist. DEQ will work with agencies to provide guidance for identifying appropriate alternatives.

Are single-use bottles of water used at state hospitals for patients and equipment (such as distilled water for patient items like CPAP machines) exempt due to their medical purpose?

Yes, the EO exempts plastics used for medical purposes. Agencies in this situation could address the bottles voluntarily during their plastics and solid waste reduction planning process. Depending on the quantity generated, the agency might prioritize finding an alternative; at a minimum, the agency should ensure that the bottles are recyclable and are actually being recycled.

Certain state agency facilities are required to stock bottled water for emergencies in order to maintain their certification by outside boards or commissions. Does the stockpile qualify for the medical exemption?

Yes. Agencies in this situation should address the bottles during their plastics and solid waste reduction planning process. Depending on the quantity generated, the agency might prioritize finding an alternative; at a minimum, the agency should ensure that the bottles are recyclable and are actually being recycled.

What is the process for requesting exemptions for medical, public health or safety?

For the cessation of use items, agencies will make that determination on their own and explain their decision in the report that is submitted to DEQ in September, 2021.

How do agencies request to use the phase-out option for the items included in the cessation of use list?

Agencies requesting to phase-out the items identified under the cessation of use list by the end of 2022 due to their unique circumstances can request DEQ's concurrence via the form on the spreadsheet tool; such requests should be submitted to DEQ via VEEP@DEQ.Virginia.gov by July 7, 2021. Request on the "Request for Cessation Extension" tab should include information on actions taken to reduce usage and steps to meet the cessation of use.